

The complaint

Mr and Mrs B complained because Metro Bank PLC refused to refund them for a transaction they said they hadn't authorised.

What happened

On 16 September 2019, three debits, all to different insurance companies, were attempted on Mr and Mrs B's account with Metro:

- one was for £60.10 and didn't debit the account;
- a second was for £73.51. Initially Mr and Mrs B thought they hadn't authorised this one, but later confirmed they had;
- the third one was for £124.37. Mr and Mrs B said they didn't authorise this, and their complaint is about this debit.

Mr and Mrs B contacted Metro and complained. Metro didn't uphold their complaint. It said that the genuine transaction for £73.51, and the disputed one for £124.37, had been made by the same device using the same IP address. So it refused to refund them with the £124.37.

Mr and Mrs B weren't satisfied and complained to this service. They also told us they'd contacted the insurance company to which the £124.37 debit had been made. That insurance company had confirmed that it had no record of Mr and Mrs B as customers.

The investigator didn't uphold Mr and Mrs B's complaint. He said that Metro's records suggested that all three payments were made from the same device. So if the second payment was genuine, it was likely that the others were too.

Mr and Mrs B said they were genuinely disappointed, and they weren't the ones who had made the transactions. They said they'd also recently been victims of fraud again, with someone using their details for a gambling site, which neither of them had signed up for. They felt their details weren't secure with Metro.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I issued a provisional decision on this complaint. In that, I said that I was sorry to hear that Mr and Mrs B had more recently been victims of a gambling fraud. It must have been very upsetting for them. I explained that I couldn't comment on that incident, because this service can only consider complaints which have first been referred to the bank, giving the bank an opportunity to issue a final response.

So my provisional decision, and this final decision, only look at the 16 September 2019 insurance debits, and whether or not Metro should refund Mr and Mrs B with the £124.37 debit which they say they didn't authorise.

Regulations

The relevant regulations for disputed transactions taking place in September 2019 are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if he did authorise them.

The regulations say that the payment service provider (here, Metro) must first show the payment was authenticated. That's the technical part, where the bank must show that it verified the customer's identity using the correct security details.

The regulations also say that it's necessary to look at whether the card holder authorised the payments – in other words, whether they consented to the payment.

More information which I asked for

I asked for more information from Metro, and also from the insurance company to which the £124.37 payment was made.

I asked Metro for evidence that the card number, expiry date, and three digit security code had been entered correctly. Metro said it couldn't provide this authentication information about the transaction.

I also asked Metro about the IP addresses used for the three insurance company attempted transactions. In its final response, Metro had told Mr and Mrs B that the reason it rejected their claim for a refund was that the device and IP address were the same. Two of the insurance debits attempted that day used one IP address, and the third used an IP address several hundred miles away. Neither address was close to where Mr and Mrs B live. Metro replied that it couldn't explain why this might be. But it added that in its experience, IP geographical locations aren't always accurate, and it a technical device might have been used to disguise the true location.

I also asked the insurance company whether it had any records for either Mr or Mrs B. As Mr and Mrs B had told us, the insurance company confirmed that it didn't. I also asked for information about the disputed £124.37 transaction. It said that the £124.37 transaction had been attempted twice. It had been rejected the first time, then succeeded.

The insurance company also said that the name on the card for the £124.37 debit had been a completely different name from Mr and Mrs B. And the insurance company's fraud team had picked up the transaction as identity theft of that individual, though it had never been able to get 100% confirmation. The insurance company said it had later refunded £35.65 to Mr and Mrs B's card. I've checked and this credited their Metro account on 15 October 2019. The insurance company told us that it was possible both Mr and Mrs B, and the other individual, had been subject to unauthorised payments.

What's most likely to have happened?

I said in my provisional decision that the situation about these attempted payments was very confusing, and some of the evidence was incomplete. When this happens, I make my decision according to what's more likely to have happened.

First, Metro hadn't provided evidence that the disputed payment was authenticated. As I've set out above, it's a basic rule of the Payment Services Regulations that the payment service provider must provide evidence of authentication.

Metro provided the device identification and IP addresses for the three payments, but it didn't provide clear evidence to show that the card number, expiry and security code were all correctly entered. And a transaction then being made from another IP address, where there's no suggestion that a technical disguising method has been used, remains a good indicator that the genuine customer didn't make it, especially when viewed alongside everything else here.

So I found that Metro hadn't provided evidence to show that the disputed transaction was authenticated.

I also considered the insurance company's replies. These showed there was something highly suspect about the transaction, with one other individual believed to have suffered identity theft. I'd like to make clear that there's no suggestion that Mr and Mrs B might have been involved in this fraud. First, they were the people whose account was debited, so they suffered a loss. And the insurance company wouldn't have sent them a partial refund if its specialist fraud team had suspected they'd been fraudsters. I didn't have all the records of the insurance company's fraud team investigation, but it was clear that there was some element of fraud around this transaction. So I considered it was much more likely than not that Mr and Mrs B, like the other person whose name was on the card, were victims of identity theft.

For these reasons I considered that Mr and Mrs B didn't authorise the £124.37 payment. So, under the Payment Services Regulations, they were entitled to a refund from Metro.

The insurance company refunded £34.65 on 15 October 2019. So that left £89.72 for Metro to pay. Interest is payable on this at 8% simple, from 16 September 2019 to the date of payment.

I also considered the fact that Mr and Mrs B had suffered distress and inconvenience because of Metro's mistake in not refunding them. Mr and Mrs B were upset and worried about the transaction. They told us they'd lost all their hopes, and didn't feel valued as customers, and nor did Metro care about their wellbeing. I could understand why they felt that. And I noted that Metro didn't have authentication evidence, and simply relied on the device identity, without considering the different IP addresses. Mr and Mrs B had gone to the trouble of contacting the insurance company, which had said it had no records of them. I considered Metro didn't sufficiently investigate whether or not Mr and Mrs B had been the victims of fraud. So I found that Metro should pay Mr and Mrs B £200 compensation for their trouble and upset.

Mr and Mrs B said they were happy with the provisional decision.

Metro said it had no further comments.

Putting things right

I've reconsidered all the available evidence and arguments. Having done so, I consider my original conclusions were fair and reasonable in the circumstances of this complaint.

My final decision

My final decision is that I uphold this complaint.

I order Metro Bank PLC to pay Mr and Mrs B

- £89.72, which is the £124.37 debit less the £34.65 refund sent to Mr and Mrs B's Metro account by the insurance company on 15 October 2019;
- Interest at 8% simple on this, from 16 September 2019 to the date of payment;
- £200 compensation for the trouble and upset caused to Mr and Mrs B by Metro's failure to consider Mr and Mrs B's complaint thoroughly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 11 September 2020.

Belinda Knight
Ombudsman